



Reprinted
January 29, 2002

SENATE BILL No. 366

DIGEST OF SB 366 (Updated January 28, 2002 4:22 PM - DI 106)

Citations Affected: IC 35-38; IC 35-46; noncode.

Synopsis: Animal fighting contests. Makes possession of animal fighting paraphernalia with intent to participate in an animal fighting contest a Class B misdemeanor. Makes it a Class D felony for a person to possess animal fighting paraphernalia with intent to participate in an animal fighting contest and harbor an animal bearing scars or wounds consistent with participation in an animal fighting contest. Provides that intentionally removing a dog's vocal cords constitutes animal cruelty, a Class A misdemeanor. Allows a court to order a person to refrain from owning, harboring, or training an animal as a condition of probation.

Effective: July 1, 2002.

**Long, Lubbers, Lanane, Simpson,
Lawson C, Alting, Wyss, Meeks C**

January 8, 2002, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.
January 24, 2002, amended, reported favorably — Do Pass.
January 28, 2002, read second time, amended, ordered engrossed.

SB 366—LS 6995/DI 106+



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Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

SENATE BILL No. 366

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 35-38-2-2.3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2.3. (a) As a condition
3 of probation, the court may require a person to do a combination of the
4 following:

5 (1) Work faithfully at suitable employment or faithfully pursue a
6 course of study or vocational training that will equip the person
7 for suitable employment.

8 (2) Undergo available medical or psychiatric treatment and
9 remain in a specified institution if required for that purpose.

10 (3) Attend or reside in a facility established for the instruction,
11 recreation, or residence of persons on probation.

12 (4) Support the person's dependents and meet other family
13 responsibilities.

14 (5) Make restitution or reparation to the victim of the crime for
15 damage or injury that was sustained by the victim. When
16 restitution or reparation is a condition of probation, the court shall
17 fix the amount, which may not exceed an amount the person can

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or will be able to pay, and shall fix the manner of performance.

(6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.

(7) Pay a fine authorized by IC 35-50.

(8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.

(9) Report to a probation officer at reasonable times as directed by the court or the probation officer.

(10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.

(11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.

(12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.

(13) Perform uncompensated work that benefits the community.

(14) Satisfy other conditions reasonably related to the person's rehabilitation.

(15) Undergo home detention under IC 35-38-2.5.

(16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:

(A) the person had been convicted of a sex crime listed in IC 35-38-1-7.1(e) and the crime created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV) as described in IC 35-38-1-7.1(b)(8); or

(B) the person had been convicted of an offense related to a controlled substance listed in IC 35-38-1-7.1(f) and the offense involved the conditions described in IC 35-38-1-7.1(b)(9)(A).

(17) Refrain from any direct or indirect contact with an individual.

(18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-1-7-2).

(19) Periodically undergo a laboratory chemical test (as defined

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in IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;

(2) the days or parts of days during which a person is to be

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confined; and

(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(17):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 2. IC 35-46-3-4.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 4.3. (a) As used in this chapter, "animal fighting paraphernalia" means equipment used to train or condition animals for participation in an animal fighting contest.**

(b) The term includes the following:

(1) A treadmill designed or used to condition an animal.

(2) A jenni, catmill, flirtpole, or any other conditioning device involving the use of a small animal as a lure.

(3) A hot walker designed or used to condition an animal for participation in an animal fighting contest.

(4) A cat walker designed or used to condition an animal for participation in an animal fighting contest.

(5) A springpole.

(6) Parting sticks.

(7) A gaff for use in an animal fighting contest.

(8) Spurs for use in an animal fighting contest.

(9) An animal fighting pit.

SECTION 3. IC 35-46-3-6, AS AMENDED BY P.L.14-2000, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 6. (a) This section does not apply to a violation of section 1 of this chapter.**

(b) Any law enforcement officer or any other person having authority to impound animals who has probable cause to believe there has been a violation of this chapter or IC 15-5-12-3 may take custody of the animal involved.

(c) The animal shall be properly cared for pending disposition of charges under this chapter or IC 15-5-12: owner of an animal that has been impounded under this section may prevent disposition of the



animal by an animal shelter that is caring for the animal by posting, not later than ten (10) days after the animal has been impounded, a bond with the court in an amount sufficient to provide for the animal's care and keeping for at least thirty (30) days, beginning from the date the animal was impounded. The owner may renew a bond by posting a new bond, in an amount sufficient to provide for the animal's care and keeping for at least an additional thirty (30) days, not later than ten (10) days after the expiration of the period for which a previous bond was posted. If a bond expires and is not renewed, the animal shelter may determine disposition of the animal, subject to court order. If the owner of an animal impounded under this section is convicted of an offense under this chapter or IC 15-5-12-3, the owner shall reimburse the animal shelter for the expense of the animal's care and keeping. If the owner has paid a bond under this subsection, the animal shelter may euthanize an animal if a veterinarian determines that an animal is suffering extreme pain.

(d) If the owner requests, the court having jurisdiction of criminal charges filed under this chapter or IC 15-5-12 shall hold a hearing to determine whether probable cause exists to believe that a violation of this chapter or IC 15-5-12 has occurred. If the court determines that probable cause does not exist, the court shall order the animal returned to its owner, **and the return of any bond posted by its owner.**

(e) This subsection applies only to livestock animals. Whenever charges are filed under this chapter, the court shall appoint the state veterinarian under IC 15-2.1-2-50 or the state veterinarian's designee to:

- (1) investigate the condition of the animal and the circumstances relating to the animal's condition; and
- (2) make a recommendation to the court under subsection (f) regarding the confiscation of the animal.

(f) The state veterinarian or the state veterinarian's designee who is appointed under subsection (e) shall do the following:

- (1) Make a recommendation to the court concerning whether confiscation is necessary to protect the safety and well-being of the animal.
- (2) If confiscation is recommended under subdivision (1), recommend a manner for handling the confiscation and disposition of the animal that is in the best interests of the animal.

The state veterinarian or the state veterinarian's designee who submits a recommendation under this subsection shall articulate to the court the reasons supporting the recommendation.



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(g) The court:

(1) shall give substantial weight to; and

(2) may enter an order based upon;

a recommendation submitted under subsection (f).

(h) If a person is convicted of an offense under this chapter or IC 15-5-12, the court may impose the following additional penalties against the person:

(1) A requirement that the person pay the costs of caring for an animal involved in the offenses that are incurred during a period of impoundment authorized under subsection (b).

(2) An order terminating the person's right to possession, title, custody, or care of an animal that was involved in the offense.

(i) If a person's right to possession, title, custody, or care of an animal is terminated under subsection (h), the court may:

(1) award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals;

or

(2) order the disposition of the animal as recommended under subsection (f).

SECTION 4. IC 35-46-3-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 8.5. A person who knowingly or intentionally possesses animal fighting paraphernalia with the intent to commit a violation of IC 35-46-3-9 commits possession of animal fighting paraphernalia, a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction under this section.**

SECTION 5. IC 35-46-3-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 9.5. A person who knowingly or intentionally:**

(1) possesses animal fighting paraphernalia with the intent to commit a violation of IC 35-46-3-9; and

(2) possesses, harbors, or trains a dog, cock, fowl, or bird bearing:

(A) a scar;

(B) a wound; or

(C) an injury;

consistent with participation in or training for an animal fighting contest;

commits promoting an animal fighting contest, a Class D felony.

SECTION 6. [EFFECTIVE JULY 1, 2002] IC 35-46-3-8.5 and IC 35-46-3-9.5, both as added by this act, apply only to acts



1 committed after June 30, 2002.

2 SECTION 7. IC 35-46-3-13 IS ADDED TO THE INDIANA CODE
3 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
4 1, 2002]: Sec. 13. (a) A person who knowingly or intentionally
5 removes the vocal cords of a trained attack dog commits cruelty to
6 an animal, a Class A misdemeanor.

7 (b) It is a defense to a prosecution under this section that the
8 accused person reasonably believes that the conduct was necessary
9 to prevent a seriously injured dog from prolonged injury.

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SENATE MOTION

Mr. President: I move that Senator Simpson be added as coauthor of Senate Bill 366.

LONG

SENATE MOTION

Mr. President: I move that Senator Lawson C be added as coauthor of Senate Bill 366.

LONG

SENATE MOTION

Mr. President: I move that Senator Alting be added as coauthor of Senate Bill 366.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 366, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, delete lines 32 through 34.

Page 5, line 26, delete "." and insert ", **and the return of any bond posted by its owner.**".

Page 6, line 26, after "paraphernalia" insert "**with the intent to commit a violation of IC 35-46-3-9**".

Page 6, line 33, after "paraphernalia" insert "**with the intent to commit a violation of IC 35-46-3-9**".

and when so amended that said bill do pass.

(Reference is to SB 366 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 7, Nays 0.

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SENATE MOTION

Mr. President: I move that Senators Wyss and Meeks C be added as coauthors of Senate Bill 366.

LONG

SENATE MOTION

Mr. President: I move that Senate Bill 366 be amended to read as follows:

Page 7, after line 1, begin a new paragraph and insert:

"SECTION 7. IC 35-46-3-13 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS** [EFFECTIVE JULY 1, 2002]: **Sec. 13. (a) A person who knowingly or intentionally removes the vocal cords of a trained attack dog commits cruelty to an animal, a Class A misdemeanor.**

(b) It is a defense to a prosecution under this section that the accused person reasonably believes that the conduct was necessary to prevent a seriously injured dog from prolonged injury."

(Reference is to SB 366 as printed January 25, 2002.)

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